IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

Crl.MC.No. 2350 of 2007()

CP.125/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ADOOR
CRIME NO.117/05 OF KODUMON POLICE STATION

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PETITIONER:

SRI. SANTHOSH,S/O.PRABHAKARAN PILLAI,
KOCHELIMANNIL LABOUR LANE DIVISION A
CHANDANAPALLIL ESTATE,VADAKKEKARA MURI,
ANGADICAL VILLAGE.

BY ADV. SRI.S.HARIKRISHNAN
SRI.V.VENUGOPALAN NAIR

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
KODUMON POLICE STATION, ADOOR.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2350 of 2007

Dated this the 23rd day of July, 2007

ORDER

The petitioner faces allegations under the Abkari Act. Investigation is complete. Final report has already been filed. The committal proceedings as C.P.No.125 of 2007 before the Judicial Magistrate of the First Class, Adoor has been registered. The petitioner did not appear before the learned Magistrate. Consequently, he finds a warrant of arrest issued by the learned Magistrate chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence was not wilful and was due to reasons beyond his control. He is willing to surrender before the learned Magistrate and co-operate with the court for the expeditious disposal of the case. But he apprehends that his application for bail may not be considered by the learned Magistrate in accordance with law (in compliance with the directions in **Sukumari v. State of Kerala** [2001(1) K.L.T 22]), on merits and expeditiously.

3. I find no merit in the prayer to invoke the powers under Section 482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the

circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same in the light of the decision in **Sukumari v. State of Kerala** [2001(1) K.L.T 22].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-